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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

In re:  
STAR MOUNTAIN  
ENTERPRISES, LLC,

Debtor.

Bankruptcy Case No. 19-24015  
Chapter 7

Hon. R. Kimball Mosier

[Proposed] ORDER COMPELLING DEBTOR'S  
PARTNERS TAMIO STEHRENBARGER AND  
ANNA STEHRENBARGER TO ATTEND RULE  
2004 EXAMS AND PRODUCE DOCUMENTS

This matter came before the Court on creditor Michiko Stehrenberger's motion to compel the Rule 2004 examinations and production of documents by debtor Star Mountain's two partners, Tamio Stehrenberger and Anna Stehrenberger, under Fed. R. Bankr. P. 2004 and Local Rule 2004-1. Based on this Motion, exhibits, and arguments presented by the parties, if any, and under the Court's authority to compel compliance under Fed. R. Bankr. P. 105(a) and Fed. R. Civ. 37 and 45, this Court enters the following findings, conclusions, and order:

1. On August 13, 2019, this Court ordered the Rule 2004 examinations of debtor Star Mountain Enterprises, LLC's two partners, Tamio Stehrenberger and Anna Stehrenberger.
2. Creditor Michiko Stehrenberger obtained Rule 2004 subpoenas from the Bankruptcy Court of the District of Utah.

3. The Rule 2004 subpoenas in this case were properly issued from the Bankruptcy Court of the District of Utah. “The court in which the bankruptcy proceeding is pending is the proper court to issue the subpoena rather than the court where the Rule 2004 examination is to be taken.” *In re Fred Ayers Co.*, 266 B.R. 557 (2001)(M.D. Georgia, Albany Div.).
4. The debtor's partners each fall within Rule 9001(5)'s definition of the “debtor” for the purposes of Rule 2004 examinations, as clarified by the Advisory Committee Notes (1983) to Rule 2004, and debtor's partners Tamio Stehrenberger and Anna Stehrenberger are therefore parties to this case for that purpose. The *Advisory Committee Notes (1983)* to Rule 2004 state: “*Definition of debtor.* The word “debtor” as used in this rule includes the persons specified in the definition in Rule 9001(5).”) and Rule 9001(5) states:

Rule 9001. General Definitions . . . In addition, the following words and phrases used in these rules have the meanings indicated: (5) “Debtor.” When any act is required by these rules to be performed by a debtor or when it is necessary to compel attendance of a debtor for examination and the debtor is not a natural person: (A) if the debtor is a corporation, “debtor” includes, if designated by the court, any or all of its officers, members of its board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control; (B) if the debtor is a partnership, “debtor” includes any or all of its general partners or, if designated by the court.

(emphasis added)

5. Debtor Star Mountain and by association its two partners, Tamio Stehrenberger and Anna Stehrenberger, have all been represented continuously in this bankruptcy by counsel, Mr. Chris Andrus, since the June 2, 2019 filing of the Chapter 7 petition. *Local Bankruptcy Rules 2091-1(a)*
6. Counsel for the debtor, Mr. Chris Andrus, cannot modify the scope of his continuous representation of the debtor (including continuous representation of the debtor's partners)

without risking sanctions. Local Rule 9010-1(a) clarifies the scope of representation:

Scope of Representation. A debtor's attorney must represent and advise the debtor in all aspects of the case . . . . The scope of representation cannot be modified by agreement. The court may deny fees or otherwise discipline an attorney for violation of this rule.

(emphasis added)

7. Debtor Star Mountain is a party to this case and service by postal mail may be made upon parties to this case.
8. When read together, Local Rule 9010-1(a)'s scope of Mr. Andrus's representation of the debtor, combined with Rule 9001(5)'s definition of the "debtor" to include the debtor's two partners, it is clear that Mr. Andrus represents both of the debtor's partners, Tamio and Anna Stehrenberger as parties in of this case.
9. As Tamio and Anna Stehrenberger are also parties to this case, and who are also represented by counsel, service by mail of notices, filings, documents, and orders upon the parties to this case may be completed upon each of them through service by mail rather than by personal service or other means.
10. The plain language of the District of Utah's Local Rule 2004-1, as written, requires only a minimum 14-days' "written *notice* of the examination," and does not require any separate additional 14-day advance *service* of the Rule 2004 subpoenas. Local Rule 2004-1(3)(A) states that the person seeking to obtain the Rule 2004 examination:

. . . Represents that the entity to be examined will receive not less than 14 days' written notice of the examination, and that compulsory attendance of the entity and, if applicable, the production of documents will be by subpoena consistent with Fed. R. Bankr. P. 2004(c) and 9016.

(emphasis added)

11. On August 26, 2019, creditor Michiko properly served by mail a Rule 2004 subpoena for a September 10, 2019 examination upon debtor partner Anna Stehrenberger through service by mail upon debtor's counsel Chris Andrus.
12. The Court takes judicial notice of the fact that Westlake Village, California is within 100 miles of Laguna Niguel, California.
13. The Rule 2004 subpoena properly required Anna's attendance and production at a location within 100 miles of Anna's Laguna Niguel, California address of record (in Westlake Village, California.)
14. On August 26, 2019 creditor Michiko also properly sent the minimum 14-day "written notice" of the September 10, 2019 examination date to debtor's counsel by email, thereby fulfilling the minimum 14-day requirement.
15. On August 26, 2019, creditor Michiko also mailed to debtor's partner Anna Stehrenberger a copy of the subpoena at her Laguna Niguel, California address of record.
16. Debtor's partner Anna Stehrenberger failed to attend or produce the subpoenaed documents at the September 10, 2019 examination.
17. Debtor's counsel failed to timely serve any objection or any motion to quash the Rule 2004 subpoena requiring Anna's attendance and production of documents at the September 10 exam.
18. Rule 2004 and Local Rule 2004-1, as written, do not set any limits on the number of examinations or continuances of examinations, and creditor Michiko anticipated the debtor's two partners would refuse to produce documents prior to the first September 10 exam to allow Michiko sufficient time to review and prepare exam questions to be ready for the September 10 exam.

19. On September 5, 2019, creditor Michiko properly served by mail upon debtor's counsel two supplemental subpoenas requiring a September 25, 2019 supplemental exam of debtor's partner Anna and a first September 26, 2019 exam of the debtor's other partner Tamio, both subpoenas requiring attendance in Westlake Village (a location correctly within 100 miles of their Laguna Niguel address of record).
20. Also on September 5, 2019, creditor Michiko emailed debtor's counsel the minimum 14-day "written notice of the examination" of September 25 and 26 exams (20-day and 21-day advance written notice).
21. Also on September 5, 2019, creditor Michiko mailed copies of the subpoenas directly to Tamio and Anna showing that they were required to attend the September 25-26, 2019 Rule 2004 examinations.
22. On September 24, 2019, debtor's counsel filed a Motion to Quash/Motion for Protective Order with the court, but debtor's counsel failed to serve the Motion upon creditor Michiko and failed to set a hearing on the motion for more than a month, and therefore the unserved Motion to Quash/Motion for Protective Order were not timely.
23. On September 25, 2019, debtor's partner Anna Stehrenberger again failed to attend or produce any of the subpoenaed documents at the Rule 2004 examination.
24. On September 26, 2019, debtor's partner Tamio Stehrenberger failed to attend or or produce any of the subpoenaed documents at the Rule examination.
25. Creditor Michiko attempted to engage in multiple meet and confer discussions with debtor's counsel, but debtor's counsel repeatedly failed to attend a majority of the requested meet and confers and ultimately failed to attend the final meet and confer requested by creditor Michiko prior to Michiko bringing her Motion to Compel.

26. Debtor's counsel failed to serve the debtor's Motion to Quash/Motion for Protective Order within a reasonable time after the September 10, 25, and 26, 2019 examination dates, and prior to creditor Michiko's October 29, 2019-dated Motion to Compel, and debtor's untimely Motion is therefore shall not be considered.

Based upon the foregoing, IT IS HEREBY ORDERED that debtor partners Tamio Stehrenberger and Anna Stehrenberger are each compelled to attend and participate in the Rule 2004 examinations and to produce the documents as were identified in the subpoenas that were served upon debtor's counsel Chris Andrus for the previously-set September 10, September 25, and September 26, 2019 exam dates.

1. Debtor Star Mountain Enterprises, LLC's partner **Tamio Stehrenberger** is required to attend and to produce the subpoenaed documents on each of the two following dates below: \_\_\_\_\_ **(date) at 12:00 noon** at:

Office Evolution  
30721 Russell Ranch Rd #140  
Westlake Village, Ca 91362  
Scheduling confirmation contact: Hayley Marie  
Cell-805.558.5605/Office-818.287.6754

**or some other such date, time, and location within 100 miles of the debtor's partners' listed Laguna Niguel, California address, if so designated by the creditor Michiko Stehrenberger by an email sent to the debtor's counsel's email addresses no later than 24 hours prior to the exam date and time.**

Because documents may be produced for the first time at the first exam and may not allow the creditor sufficient time for review and preparation of exam questions at the first exam, debtor partner Tamio Stehrenberger is also required to attend and

produce the subpoenaed documents at a **supplemental Rule 2004 exam date of \_\_\_\_\_ (date) at 12:00 noon** at the Office Evolution location in Westlake Village, CA, above, **or some other such date, time, and location specified by Michiko by email to debtor's counsel no later than 24 hours before the exam start time.** The dates, times, and location may be modified by creditor Michiko upon 24 hours' advance notice (sent by email to debtor's counsel) based upon scheduling, staffing, or other factors, and Michiko may continue the exams to additional dates upon her notice sent by email to debtor's counsel. Michiko is not required to serve notice by postal mail or personal service, and notice is sufficient if emailed to debtor's counsel at [chrisandrusjd@yahoo.com](mailto:chrisandrusjd@yahoo.com) and [chrisandrusjd@gmail.com](mailto:chrisandrusjd@gmail.com), which emailed notice is to also to be held binding upon debtor's partner Tamio, along with a cc: to Tamio at [tls421@gmail.com](mailto:tls421@gmail.com), [michi.court@gmail.com](mailto:michi.court@gmail.com).

2. Debtor Star Mountain Enterprises, LLC's partner **Anna Stehrenberger** is required to attend and produce the subpoenaed documents on or more of the following dates: \_\_\_\_\_ **(date) at 12:00 noon** at:

Office Evolution  
30721 Russell Ranch Rd #140  
Westlake Village, Ca 91362  
Scheduling confirmation contact: Hayley Marie  
Cell-805.558.5605/Office-818.287.6754

**or some other such date, time, and location within 100 miles of the debtor's partners' listed Laguna Niguel, California address, if so designated by the creditor Michiko Stehrenberger by an email sent to the debtor's counsel's email addresses no later than 24 hours prior to the exam date and time.**

Because documents may be produced for the first time at the first exam and may not allow the creditor sufficient time for review and preparation of exam questions at the first exam, debtor partner Anna Stehrenberger is also required to attend and provide the subpoenaed documents at a **supplemental Rule 2004 exam date of \_\_\_\_\_(date) at 12:00 noon** at the Office Evolution location in Westlake Village, CA, above, **or some other such date, time, and location specified by Michiko by email to debtor's counsel no later than 24 hours before the exam start time.** The dates, times, and location may be modified by creditor Michiko upon 24 hours' advance notice (sent by email to debtor's counsel) based upon scheduling, staffing, or other factors, and Michiko may continue the exams to additional dates upon her notice sent by email to debtor's counsel. Michiko is not required to serve notice by postal mail or personal service, and notice is sufficient if emailed to debtor's counsel at chrisandrusjd@yahoo.com and chrisandrusjd@gmail.com, which emailed notice is to also to be held binding upon debtor's partner Anna, along with a cc: to Anna at mrs.tls421@gmail.com and la\_chica\_anna@hotmail.com.

It is further ORDERED that Tamio Stehrenberger and Anna Stehrenberger are each required to produce by email to creditor Michiko Stehrenberger at document.request@gmail.com the following documents related to debtor Star Mountain Enterprises, LLC, as previously specified within the subpoenas for the September 10, 25, and 26 exams and for which the debtor, its counsel, and its two partners received prior notice on August 26, 2019 and September 5, 2019:

Any tax returns/filings including partnership returns and k-1 forms, all corporate documents (operating agreements, votes, meeting minutes, etc.), all financial account statements (including bank statements, Landmark/Bray-Conn 10032



account statements, etc.), any promissory notes to which debtor Star Mountain or any of its members or partners are a party, including but not limited to notes relating to Michiko Stehrenberger, Francine Yeh, Ken Hsieh, Landmark Venture Capital, LLC, Stanley Lott, Pamela Easter, and any other person or entity.

The debtor's partners may produce the subpoenaed documents to creditor Michiko by email to [document.request@gmail.com](mailto:document.request@gmail.com) and if the debtor's partners choose to produce the documents at least 72 hours before the start times of the Rule 2004 exams and allow Michiko sufficient advance time to review them and prepare exam questions based upon them, then Michiko may cancel the supplemental exam dates.

It is further ORDERED that creditor Michiko is not required to serve either by personal service or by mail any new Rule 2004 subpoenas related to debtor's partners Tamio and Anna based upon this Order. and may instead rely upon this Order to compel attendance and production of Tamio Stehrenberger and Anna Stehrenberger within the time frames specified.

It is further ORDERED that if either Tamio Stehrenberger or Anna Stehrenberger fail to appear at the time and place designated, the Court may at the appropriate time consider the sanction of contempt, including the bodily imprisonment of Tamio or Anna for an indefinite period of time until such time that Tamio or Anna comply with attending and producing documents for the Rule 2004 exams, and any referrals for criminal contempt if appropriate, in accordance with the requirements of Fed. R. Civ. P. 45(g), or under any other authority granted this Court under 11 U.S.C. 105(a), Fed. R. Civ. P. 37, and any other applicable rules, statutes, or case decisions.

-----END OF DOCUMENT-----

DESIGNATION OF PARTIES TO BE SERVED

Service of the foregoing *Order Compelling Debtor's Partners Tamio Stehrenberger and Anna Stehrenberger to Attend Rule 2004 Exams and Produce Documents* shall be served to the parties and in the manner designated below:

**By electronic service:** The parties of record in this case as identified below are registered CM/ECF users and will be served notice of entry of the foregoing Order through the CM/ECF system:

- Chris Andrus, counsel for debtor: [ChrisAndrusjd@yahoo.com](mailto:ChrisAndrusjd@yahoo.com)
- Kenneth Rushton, Chapter 7 Trustee: [KRus8416@aol.com](mailto:KRus8416@aol.com)
- United States Trustee [USTPRegion19.SK.ECF@usdoj.gov](mailto:USTPRegion19.SK.ECF@usdoj.gov)

**By separately-sent email (not automatically sent by the CM/ECF system):**

- Michiko Stehrenberger [document.request@gmail.com](mailto:document.request@gmail.com)

**By U.S. Mail:**

- Tamio Stehrenberger, debtor's partner  
25442 Burntwood  
Laguna Niguel, CA 92677
- Anna Stehrenberger, debtor's partner  
25442 Burntwood  
Laguna Niguel, CA 92677
- E.S., debtor's partner  
25442 Burntwood  
Laguna Niguel, CA 92677